

**CALIFORNIA COASTAL COMMISSION**

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Staff: AJP-LB  
Staff Report: 12/20/05  
Hearing Date: 1/11-13/06  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-05-209**APPLICANT:** Southern California Gas Company**PROJECT LOCATION:** 400 feet northeast of the intersection of Culver and Jefferson Boulevard, Playa del Rey, City of Los Angeles.**PROJECT DESCRIPTION:** Request for after-the-fact approval of unpermitted development consisting of: repair to an existing road including the placing of filter fabric and fill material (crushed granite and dirt) on the roadbed of an existing oil well access road, removal of fill outside previous roadway prism, and restoration. The fill increased the height of the road by 1.5 feet and resulted in the encroachment of approximately 10 cubic yards of fill into the surrounding area.**LOCAL APPROVALS RECEIVED:** Approval in Concept

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**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission **Approve** a permit for the proposed development with a special condition regarding the submittal of a plan to monitor and remove invasive non-native plants from the area of unpermitted fill that is being removed with the approval of this permit. As conditioned, the proposed development conforms with all applicable policies of the Coastal Act.

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**SUBSTANTIVE FILE DOCUMENTS:**

1. Southern California Gas Company easement.
2. California Coastal Conservancy, Department of Fish and Game, State Lands Commission. "A planning approach, Ballona restoration and planning., 2005.
3. Pete Bontadelli, Department of Fish and game, MEMORANDUM: Ballona Wetland acreage determination Contained in the Department of Fish and Games September 12, 1991 Memorandum to the Fish and Game Commission, December 20, 1991.
4. Los Angeles County Museum of Natural History, Significant Ecological Areas of Los Angeles County, 1976
5. Certified Playa Vista Land Use Plan, City of Los Angeles
6. Coastal Development Permit No. 5-01-96 (Ballona Wetlands Foundation); 5-90-174(Maguire Thomas Partners-Playa Vista; 5-97-144(Maguire Thomas Partners)

**I. STAFF RECOMMENDATION:**

**MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-01-096:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit #5-05-209 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

### 1. Plan to Monitor the Disturbed Area and Remove Invasive Non-native Plants

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant will submit, for the review and written approval of the Executive Director, a plan to monitor the disturbed area and to remove invasive non-native plants. The plan shall be prepared by a licensed biologist or licensed landscape architect, with expertise in wetland restoration. The plan shall delineate the "impacted area" as the area subject to fill or compaction from the passage of heavy equipment and a "peripherally impacted area" no less than five feet wide surrounding the area directly subject to fill or compaction. The plan shall include procedures for identification and removal of non-native invasive plants that may be found in the impacted and peripherally impacted areas. All plant removal shall be by hand. Areas showing evidence of compaction shall be loosened with hand tools. The plan shall be reviewed and approved by, the California Department of Fish and Game prior to being submitted to the Executive Director for review and approval. The plan shall include the following:

1. Invasive plants are those identified in the California Native Plant Society, Los Angeles -- Santa Monica Mountains Chapter handbook entitled *Recommended List of Native Plants for Landscaping in the Santa Monica Mountains*, January 20, 1992, those species listed by the California Exotic Plant Pest Council on any of their watch lists as published in 1999, and those otherwise identified by the Department of Fish and Game or the United States Fish and Wildlife Service.
2. All non-native invasive plants shall be removed with hand tools
3. No herbicides shall be employed.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**C.** Two years from the date of issuance of Coastal Development Permit No. 5-05-209, the applicant shall submit for the review and approval of the Executive Director, a monitoring report, prepared by a licensed biologist or landscape architect with expertise in wetland restoration that indicates the progress of the natural revegetation of the impacted area. The monitoring report shall include photographic documentation of plant species, plant coverage and an evaluation of the natural restoration of the site.

If the monitoring report indicates that the area has not naturally revegetated with native species typically found in the area, or that non-native species have reestablished, the applicant, or successors in interest, shall submit to the Commission an application for an amendment to this coastal development permit for approval of an amended landscape restoration plan and an extension of the non-native plant removal program for a period not less than two additional years and shall undertake the development approved pursuant to any such amendment.

## **2. United States Army Corps of Engineers Approval**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, permittee shall provide to the Executive Director a copy of a permit issued by United States Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the United States Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

#### **IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

##### **A. Project Description and Location**

Request for after-the-fact approval of unpermitted development consisting of: repair to an existing road including the placing of filter fabric and fill material (crushed granite and dirt) within the existing roadbed of an existing gas well access road, and removal of the crushed gravel that was deposited outside the prism of the original roadway. Excess material will be removed from the site and disposed outside of the coastal zone.

The access road is in an unpaved road located off of Jefferson Boulevard, just northeast of the intersection of Culver Boulevard and Jefferson Boulevard, in Playa del Rey area of the City of Los Angeles (see Exhibit No. 2). The existing access road is approximately 12 feet wide and extends approximately 130 feet from Jefferson Boulevard to the gas well. While the surrounding land is owned by the Department of Fish and Game, Southern California Gas Company (SCG) has an easement that allows operation and maintenance of several oil wells, and gas re-injection wells and access to them. The proposed project, including the unpermitted fill is located within SCG's easement.

The unpermitted fill increased the height of the road by 1.5 feet and resulted in the encroachment of approximately 10 cubic yards of fill into the surrounding area, impacting approximately 115 square feet of wetland area. The applicant is proposing to remove the imported fill material and restore the road to its original elevation and footprint then add fill to create an approximately 14 inch thick roadway within the existing roadway foot print. Revegetation of the approximately 115 square foot area of impacted wetland will be left to occur naturally from the existing seed bank found within the existing soil and from seasonal flooding.

According to SCG, operation staff conducted maintenance activities on the existing dirt access road that leads to an operation well (No. 11) after heavy rains and prolonged inundated conditions restricted access to the well. Filter fabric was placed on top of the existing dirt road, and then imported road-base material was placed to raise the level of the road. During this construction, road base material tapered approximately 6 inches over on either side of the existing road footprint into the surrounding area.

To address the encroachment, the applicant will remove the fill material from the area that extended beyond the original footprint of the access road with use of a backhoe on the road and hand tools to remove any material that encroached into the wetland outside of the original road footprint. Additional gravel would be added and leveled to create an approximately 9-inch gravel base within the original road footprint, with a 5-inch dirt layer placed on top.

**B. Environmentally Sensitive Resources**

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240(a) of the Coastal Act states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

The proposed project is located in a portion of the Ballona wetlands, in the area known as Area B. The Ballona wetlands are remnants of a much larger wetland system that historically covered over 1,700 acres. Area B covers approximately 385 total acres and extends from Lincoln Boulevard west to the developed properties along Vista del Mar, and north from the Westchester bluffs to the Ballona Creek Channel (see Exhibit No. 2). Because of past development within Area B, including oil drilling, pipelines, road construction, and farming, only portions of the area contain jurisdictional wetlands (see Exhibit No. 5, Map of wetland areas, based on California Department of Fish and Game wetland determination, December 1, 1982). However, all wetland areas within the Ballona Wetland area are considered environmentally sensitive habitat areas and provide habitat for many species of marine fish, migratory shore birds, and endangered species, including the California least tern and Belding's savannah sparrow. Because of the existence of the wetland and an environmentally sensitive habitat area, the development in the Area B must be found consistent with Sections 30231 and 30240 of the Coastal Act.

The project site includes both a small wetland area and an unpaved road constructed many years in the past in what was formerly wetland. The road is not presently regarded as wetland although the area in which it is located could revert to wetlands if the road were removed. The amount of wetlands impacted by the unpermitted fill is approximately 115 square feet, consisting of approximately 40 square feet extending 40 feet from Jefferson Boulevard and measuring approximately 6 inches wide along both sides of the existing road; and a 75 square foot area, measuring approximately 15 feet by 5 feet, adjacent to Jefferson Boulevard used for staging (see Exhibit No. 4). The applicant is not seeking after-the-fact authorization for the placement of fill in the wetland areas; the applicant proposes to remove all of the unpermitted fill that extended into the wetlands. As part of the applicant's proposed project the impacted areas outside of the existing roadway will be restored through the removal of all imported fill material and the area will be allowed to revegetate naturally from seed bank within the soil and seasonal flooding.

According to the applicant, a reconnaissance-level biological assessment was conducted on April 18, 2005, to determine the extent of impacts to wetland resources and to evaluate the potential hydrological impacts of the fill. Well No. 11 exists on a slightly elevated area, surrounded by ruderal and nonnative grassland vegetation, with seasonal wetland vegetation occurring nearby. The seasonal wetland extends approximately 70 feet along the roadway and surrounds the road on both sides. The seasonal wetland, which is isolated by Jefferson and Culver Boulevard from other surrounding wetland areas, is considered part of the Ballona Wetland system that is found north of Culver Boulevard and south of Jefferson Boulevard.

Although the area surrounding the road is considered ESHA, the road itself, which has existed since the early 1960's, has not been identified as ESHA. The proposed changes to the road will not affect the function of the surrounding wetland and, as noted above, the improvements to the road would not prevent the restoration of the road to wetlands in a future restoration project.

The removal of the fill material will help restore the area and allow the area to revegetate. However, in addition to the direct impact fill has on the wetland area, Commission staff was also concerned with imported material creating a hydrological barrier that would impact the water flow/circulation in the immediate area and adversely impact the surrounding seasonal wetlands outside of the fill area. The Department of Fish and Game has reviewed the project and has indicated that the removal of the of unpermitted fill will not have a significant impact on the existing wetlands, and, based on the prior condition of the road, permeability of the coarse gravel proposed for the road bed, and observations over the last 20 years, the Department does not believe that the project will adversely affect water flow/circulation in the area. The Department further states that the area impacted by fill would likely be recolonized by species similar to those that occurred previously. However, they expressed concern that the area could be colonized within the first year by invasive species, such as pampas grass and castor bean, and that the site should be monitored so that invasive plants do not colonize the area and prevent the establishment of native plants. Therefore, to ensure that invasive plants do not colonize the fill impacted area, the applicant shall monitor the area for one year and provide a progress report on the revegetation of the area and a vegetation monitoring and invasive plant removal plan prepared by a licensed professional with expertise in wetland restoration. All non-native plants found in the impacted area within the first year shall be removed with hand tools. Such plan shall be reviewed and approved by the Department of Fish and Game.

As stated, the wetlands provides habitat for many bird species, including the Belding sparrow, which is listed as an endangered species. The Beldings nest over ½ mile to the west of the project site, and the construction activity, which will take approximately 3-4 days to complete, will not have an impact on the Belding's nesting activity.

As conditioned, the project will not have an adverse impact on the wetlands, and is consistent with Section 30231 and 30240 of the Coastal Act.

### **C. Unpermitted Development**

Development has occurred on site without benefit of the required coastal development permit. Unpermitted development on the site includes the placement of fill material approximately 6 inches over on either side of the existing road footprint into the surrounding wetland and increasing the elevation of the existing road approximately 1.5 feet through the placement of fill material on the road. Although unpermitted development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

### **D. Local Coastal Program**

Section 30604 (a) of the Coastal Act states that:

*Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.*

In November 1986, the Commission certified, with suggested modifications, the land use plan portion of the Playa Vista segment of the City of Los Angeles' Local Coastal Program after the City annexed the area. The proposed project is located within the City of Los Angeles' planning area of Playa Vista. While there is a certified land use plan for the area, the City of Los Angeles does not have a certified Local Coastal Program for the Playa Vista area. The City of Los Angeles submitted its Local Coastal Program in March 1981. The Commission denied the submitted LCP on December 18, 1981. The City has not planned the submittal of a revised LCP.

The certified LUP contains polices to guide the types, locations and intensity of future development in the Playa Vista coastal zone. Among these polices are those specified in the preceding section regarding environmentally sensitive habitat areas. The proposed development is consistent with the policies of the certified LUP. As proposed, the project will not adversely impact coastal resources or access.

The Ballona wetlands area, including Area B, has recently been acquired by the Department of Fish and Game. Presently the California Coastal Conservancy, the State Lands Commission and the Department of Fish and Game are developing a restoration plan to create a variety of native habitats on the Ballona Wetlands and associated upland,

including the project site. According to the Restoration Project website<sup>1</sup>, the restoration project area includes about 600 acres owned by the state of California on both sides of Ballona Creek. Meetings with stakeholders, development of goals, and biological assessments began in the fall of 2005. The present project as proposed to return the area to the conditions that existed before the unpermitted development, does not change any land use or any planning decision regarding the restoration of the marsh. The project as proposed and conditioned will not have any impacts on the marsh and is consistent with the habitat policies of the Coastal Act. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### **E. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

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<sup>1</sup> <http://www.scc.ca.gov/Ballona/index.html>,